

Assembly Bill No. 538

CHAPTER 317

An act to amend, repeal, and add Section 6375.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 8, 2007. Filed with
Secretary of State October 8, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 538, Emmerson. Sales and use taxes: exemptions: children's clothing.

The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. That law provides various exemptions from that tax, including an exemption for new children's clothing, which is sold to a nonprofit organization, as defined, for its distribution, without charge, to elementary schoolchildren.

This bill would, until January 1, 2014, expand this exemption to provide that any new children's clothing that is sold to a nonprofit organization for its distribution to all children, without charge, are exempt from that tax, and would modify the definition of a nonprofit organization to include other tax exempt organizations, as specified.

Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are automatically incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy. However, the provisions of this bill would not become operative until January 1, 2008.

The people of the State of California do enact as follows:

SECTION 1. Section 6375.5 of the Revenue and Taxation Code is amended to read:

6375.5. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, new children's clothing that is sold to a nonprofit organization for its distribution without charge to individuals under 18 years of age.

(b) For purposes of this section, “nonprofit organization” means an organization which meets all of the following criteria:

- (1) Is organized and operated for charitable purposes.
- (2) Has exempt status under Section 23701d or 23701f.
- (3) Furnishes new children’s clothing principally as a matter of assistance to recipients in distressed financial conditions.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed.

SEC. 2. Section 6375.5 is added to the Revenue and Taxation Code, to read:

6375.5. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, new children’s clothing that is sold to a nonprofit organization for its distribution without charge to elementary schoolchildren.

(b) For purposes of this section, “nonprofit organization” means an organization that meets all of the following requirements:

- (1) Is organized and operated for charitable purposes.
- (2) Has exempt status under Section 23701d.
- (3) Is engaged in the relief of poverty and distress.
- (4) Distributes new children’s clothing principally as a matter of assistance to recipients in distressed financial conditions.

(c) This section shall become operative on January 1, 2014.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on January 1, 2008.